

## What Is the FTC “Merger Portal?”

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At the Federal Trade Commission’s (FTC) open meeting this month, agency staff and commissioners discussed the recently launched “[Merger Portal](#).” The portal is available on the FTC’s website and provides the public with an additional method of communicating opinions and facts regarding mergers to the agency.

According to FTC staff, the goals of the “Merger Portal” project are to (1) evolve — not upend — the existing FTC.gov complaint process; (2) give users a “more direct path” to merger complaints; and (3) collect useful information for merger investigations and enforcement actions. Members of the public can continue to comment on or raise concerns about a merger, as they have in the past, through counsel or direct electronic or telephonic communications with the agency. Staff and the commissioners noted that public input is welcome and can be important to merger enforcement. The Kroger/Albertsons merger, currently being challenged by the FTC and several state attorneys, was used as an example of a transaction where public input benefited the agency’s enforcement effort. The Merger Portal, described as part of an effort to “systemize” opportunities for public involvement, could also be an effective way to alert the agency to potentially anticompetitive transactions that fall below the Hart-Scott-Rodino (HSR) thresholds.

Individuals or companies using the Merger Portal can do so anonymously and are able to check boxes to identify the type of harm that they allege the transaction will cause, such as “increased prices,” “reduced quality,” “reduced innovation,” and “labor market concerns.” Individuals are not required to provide any further explanation, and none of the specific boxes request information related to any procompetitive benefits of potential mergers. The FTC’s Office of Policy and Coordination will manage complaints received by forwarding them to the division of FTC reviewing the transaction or with the relevant industry experience.

The Merger Portal was initially announced in the same FTC press release that announced the agency’s final rule overhauling the HSR process. That rulemaking was published in the Federal Register on November 12, 2024, making the effective date for the new HSR information requirements February 10, 2025.

The Merger Portal has been in operation for a month, and some public comments have been received. The rulemaking, like the Merger Portal, will expand the amount and types of information provided to staff responsible for reviewing transactions with the aim of better and more easily identifying those that may substantially lessen competition or tend to create a monopoly. Although the new administration might seek to reverse, modify, or delay some or all of these recent changes, the two sitting Republican commissioners voted in favor of them and noted the value of at least of some of the additional information that the agency will receive as a result.

The Troutman Pepper antitrust team closely monitors developments at the federal and state antitrust enforcement agencies and provides the legal guidance necessary to identify potential risks and efficiently realize the benefits of

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